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7 UNITED STATES DISTRICT COURT  
8 CENTRAL DISTRICT OF CALIFORNIA  
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10 FRANK A. RUST,  
11 Plaintiff,

12 v.

13 CHINO PRISON HEALTHCARE  
14 PROVIDERS, et al.,  
15 Defendants.  
16

Case No. 5:17-cv-00556-JAK-KES

ORDER ACCEPTING REPORT AND  
RECOMMENDATION OF UNITED  
STATES MAGISTRATE JUDGE

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18 Pursuant to 28 U.S.C. § 636, the Court has reviewed the pleadings and all the  
19 records and files herein, along with the April 17, 2019 Report and Recommendation  
20 of the United States Magistrate Judge (Dkt. 83). Further, the Court has engaged in  
21 a de novo review of those portions of the Report and Recommendation to which  
22 objections (Dkt. 86) have been made. The Court accepts the findings, conclusions,  
23 and recommendations of the United States Magistrate Judge.

24 IT IS THEREFORE ORDERED that Defendants' motion for summary  
25 judgment (Dkt. 66) is granted, and Judgment shall be entered:

26 (a) for Defendants with prejudice as to Plaintiff's (i) Eighth Amendment  
27 claims against Drs. Vu and Farooq arising out of their alleged failure to protect him  
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1 from LVN Warfield, (ii) Eighth Amendment claim against Dr. Vu arising out of the  
2 failure to provide Plaintiff with a cervical pillow, and (iii) Plaintiff's First  
3 Amendment claim against Dr. Vu arising out of his alleged retaliation against  
4 Plaintiff failing to provide him with a cervical pillow (see Dkt. 83);

5 (b) dismissing all of Plaintiff's other federal claims without prejudice for  
6 failure to exhaust administrative remedies (see Dkt. 57, 62); and

7 (c) dismissing claims sounding in state law (if any) without prejudice to  
8 Plaintiff pursuing those claims in state court.

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10 DATED: May 29, 2019

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13 JOHN A. KRONSTADT  
14 UNITED STATES DISTRICT JUDGE  
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